

September 30, 1996

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
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DECISION ON APPEAL OF DETERMINATION
OF ENVIRONMENTAL NONSIGNIFICANCE (MITIGATED)

SUBJECT: Department of Development and Environmental Services File No. L95GL082/E95E0221

BANKS/BUCKLES CLEARING
Threshold Determination Appeal

Location: 23040 Redmond-Fall City Highway Northeast

Applicant's Representative:
Richard M. Stephens
Groen & Stephens
411 108th Avenue Northeast, Suite 1750
Bellevue, WA 98004

Owner: Bruce Buckles & Alvin Banks
2340 Redmond-Fall City Highway, NE
Redmond, WA 98053

Appellant: Advocates for Graceful Growth

Appellant's Representative:
Jennifer A. Dold and David Bricklin
Bricklin & Gendler
1421 Fourth Avenue, Suite 1015
Seattle, WA 98101

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary:	Deny the Appeal
Division's Final:	Deny the Appeal
Examiner:	Deny in part and grant in part

PRELIMINARY MATTERS:

Notice of appeal received by Examiner:	June 21, 1996
Statement of appeal received by Examiner:	June 21, 1996
Department Preliminary Report issued:	August 6, 1996

On August 21, 1996, the parties waived the time limits of KCC 20.24.098 in order to attempt to negotiate a settlement of the appeal.

EXAMINER PROCEEDINGS:

Pre-hearing Conference:	July 11, 1996
Motion for Dismissal:	July 25, 1996
Hearing Opened:	August 20, 1996
Hearing Closed:	September 19, 1996

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Clearing and Grading
- Logging - buffers
- Windthrow

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. The proposal under review is the issuance of a clearing and grading permit to allow the harvesting of "second growth" forest on 8 acres of an 11-acre parcel of land in rural King County. The parcel lies between the Redmond-Fall City Road and the residential subdivision of Canterbury Woods. Immediately to the east of the area proposed to be logged is Evans Creek, a Class 2 salmonid stream and designated wildlife habitat corridor. Adjacent to the west of the area proposed to be logged is a gas transmission pipeline.
2. On May 14, 1996, King County issued a determination of environmental nonsignificance (mitigated) ("MDNS") for the proposed action. Conditions which have been agreed to by the Applicant include the designation of a 150-foot wide stream buffer along the west side of Evans Creek, as required by the Bear Creek Community Plan, and minimum 25-foot wide buffers of retained vegetation along the north and south property lines.

On May 29, 1996, an appeal of the MDNS was filed by Advocates for Graceful Growth, an association of property owners residing adjacent or in close proximity to the subject property.

3. The Appellant's evidence and argument addressed impacts on adjacent and nearby residential properties to the north. The principal concern is with the effect of additional wind exposure on the remaining trees, both on the subject property and the adjacent properties, following clearing.

The preponderance of the evidence indicates that there is increased risk of windthrow following clearing, but that this risk can be reduced to one of minor impact if a properly designed buffer is established and maintained. With a buffer and buffer management plan developed specifically for the site, it is more probable than not that few, if any, trees will suffer blowdown; any damage from blowdown beyond the subject property would be unlikely. However, the MDNS requires the preparation and approval of a buffer management plan only if the Applicant elects to clear trees (up to 50% permitted) within the buffer areas.

4. Additional testimony was offered by the Appellants to show impacts upon the environment, resulting from the proposed logging, in the following respects: reduced sun radiation absorption; increased light and glare; reduced dirt and dust absorption; reduced noise attenuation; reduced air purification; reduced transpiration; increased temperature and sun exposure on adjacent properties; reduction of wildlife habitat; and diminution of the quality of life (which is enhanced by the existing forested area).

Concerns were also stated with regard to the burning of slash in a residential area, and with noise and additional truck traffic associated with the logging. The impact of smoke, noise and truck traffic on the health and living environment of nearby residents is unquestionable. However, the

expected duration of the logging is approximately two weeks; these impacts would be of limited duration. Furthermore, burning is generally permitted in the rural area, except on days when stagnant air conditions or other events cause a "burn ban" to be issued by the Puget Sound Air Pollution Control Agency.

All of the foregoing impacts are likely. However, the subject property is within the rural area of King County. Logging is a permitted and normal activity in the area. The foregoing impacts, both individually and collectively, are minor.

5. The proposed logging has been reviewed and found by DDES to be in compliance with the King County clearing and grading code, sensitive areas code, and Bear Creek Community Plan. Under existing regulations, the entire lot can be cleared, except for sensitive areas and sensitive area buffers. The preponderance of the evidence is that, with a suitable buffer, the trees which will remain on the subject property, and the trees on adjacent properties, are not likely to blow down in commonly occurring winds.
6. The State Environmental Policy Act requires that the threshold determination issued by the responsible official be accorded substantial weight. RCW 43.21C.090. The evidence indicates that the responsible official was reasonably well apprised of the nature of the proposed action and the probable impacts thereof on the environment. However, the Appellants have demonstrated that additional information was available, at reasonable cost, concerning buffer design and management, which would have better enabled the responsible official to make this threshold determination.

The substantial information provided by professional foresters at the public hearing has rectified that deficiency. The Applicant has also agreed to retain certain additional trees beyond the 25-foot buffer line along the north property line, as part of an undulating buffer. With the additional information now available, DDES can review and approve a specific buffer and buffer management plan which will substantially reduce the likelihood of damage to the structures or injury to persons on the adjacent properties.

7. There are no special conditions on the subject property which are likely to increase the risk of blowdown following the logging. Soils maps indicate that the rate of hazard for windthrow related to soil conditions is slight. The Appellants' argument that soils on the subject property differ from that which has been mapped and observed is little more than speculation. Appellants' testimony concerning changes in vegetation along the north property line of the subject property does not necessarily lead to the inference that soils on the property affected by this proposal are anything other than the well drained Everett series soils which have been mapped and observed.

CONCLUSIONS:

1. Logging of property within the rural area of King County is a normal and usual activity. The proximity of six residences to the subject property does not cause the proposed logging to have significant environmental impact if reasonable mitigating conditions are established to render unlikely damage to structures or injury on adjacent properties.
2. The proposed activity will result in a slight increase in the likelihood of blowdown of trees within the proposed buffer area and on the property to the north. This impact will be reasonably mitigated by the maintenance of a buffer area which is designed, established and managed to accomplish the objective of reducing windthrow, consistent with site conditions on the subject and adjacent properties.
3. Other impacts upon the environment, including impacts to quality of life in the neighborhood and at adjacent residences, are minor effects resulting from the normal, permissible use of the subject property consistent with applicable plans, policies and regulations.

DECISION:

In order to adequately and reasonably address the impacts of windthrow from the proposed logging on the environment, the 25-foot minimum buffer along the northern property boundary shall be designed by a qualified forester, and shall include a buffer management plan, generally as described in the MDNS, without regard to whether the project applicant elects to clear up to 50% of the trees in the northerly

buffer area. County DDES approval of the Applicants' buffer and buffer management plan shall occur prior to issuance of the clearing and grading permit.

In all other respects the MDNS issued on May 14, 1996, is affirmed.

ORDERED this 30th day of September, 1996.

James N. O'Connor
King County Hearing Examiner

TRANSMITTED this 30th day of September, 1996, to the following parties and interested persons:

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Kate Stenberg, Dept. of Natural Resources

MINUTES OF THE AUGUST 20 AND SEPTEMBER 19, 1996 PUBLIC HEARING ON DDES FILE NO. L95GL082 - BANKS/BUCKLES CLEARING APPEAL

James N. O'Connor was the Hearing Examiner in this matter. Participating at the hearing were Barbara Heavey, Craig Comfort, Jon Pederson, and Stephen Bottheim; Alex Kamola, Doug Franklin, Jennifer Dold, Bruce Buckles, Richard M. Stephens, David Bricklin, Mark McCalmon, and Lezlie Jones.

The following exhibits were offered and entered into the hearing record:

Exhibit No. 1	Department of Development and Environmental Services, Land Use Services Division, Report to the Hearing Examiner
Exhibit No. 2	Determination of Nonsignificance (Mitigated) for Banks/Buckles Clearing, issued May 29, 1996.
Exhibit No. 3	Environmental Checklist with notes, September 30, 1995
Exhibit No. 4	Notice and Statement of Appeal from Advocates for Graceful Growth, received May 29, 1996
Exhibit No. 5	BALD Grading Permit Application Review, L95GL082, J. Pederson, October 18, 1995
Exhibit No. 6	Drainage Plan, Bruce Buckles/Al Banks Redmond-Fall City Rd. Site, September 27, 1995, revised November 28, 1995, February 8, 1996, and April 10, 1996
Exhibit No. 7	Technical Information Report for Redmond Falls City Road Site, Baima & Holmberg, Inc., Approved May 11, 1996
Exhibit No. 8	SEPA file (submitted at hearing)
Exhibit No. 9	Report prepared by Mark McCalmon (forester)
Exhibit No. 10A	King County Soil Survey
B	Map
Exhibit No. 11	Evaluation of Windthrow dated June 16, 1996, by Green River Forestry Services (Alex Kamola)
Exhibit No. 12	Exhibit No. 6 annotated by Alex Kamola showing "hazard" trees

JNOC:daz
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